APPENDIX 1

Statutes and Treaty Provisions Involved

The governing treaty is the Extradition Treaty of January 19, 1922, between the United States and Venezuela, 43 Stat. 1698, which contains, in pertinent part, the following provisions:

"ARTICLE I.

"The Government of the United States of America and the Government of the United States of Venezuela agree to deliver up to justice, by means of requisition duly made as herein provided, any person who may be charged with or may have been convicted of any of the crimes committed within the jurisdiction of one of the Contracting Parties and specified in Article II of this Convention, while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or who shall be found within the territories of the other. Such surrender shall take place only upon such evidence of guilt as, according to the laws of the country in which the fugitive or accused shall be found, would justify his detention and commitment for trial if the crime or offense had been committed there.

* * *

"ARTICLE XI.

* * *

"It shall be competent for such diplomatic or superior Consular officers to ask and obtain the preliminary arrest of the person whose surrender is requested, before the Government of whom such request is made. The judicial functionaries shall prescribe the method of complying with the legal formalities of the country of which the extradition is requested.

"If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If,

however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case."

Section 3184 of Title 18 of the United States Code provides as follows:

"§ 3184. Fugitives from foreign country to United States.

"Whenever there is a treaty or convention for extradition between the United States and any foreign government, any justice or judge of the United States, or any commissioner authorized so to do by a court of the United States, or any judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within his jurisdiction, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or commissioner, to the end that the evidence of criminality may be heard and considered. If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of the treaty or convention; and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made."

Section 3191 of Title 18 of the United States Code provides as follows:

"§ 3191. Witnesses for indigent fugitives.

"On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge or commissioner hearing the matter may order that such witnesses be subpenaed; and the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner as in the case of witnesses subpenaed in behalf of the United States."

Section 1651(a) of Title 28 of the United States Code provides as follows:

"§ 1651. Writs.

"(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

APPENDIX 2

Orders of the United States District Court for the Southern District of Florida, Miami Division

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

ORDER

THIS CAUSE having come on to be heard on motion of the defendant for a protective order, and the Court having heard the arguments of counsel and being duly advised in the premises, and it being the opinion of the Court that for counsel's guidance and in the interest of proper administration of justice in this cause and within the Court's discretion that fixed rules of procedure should be established for all matters relating to this cause and the Court being of the further opinion that the Federal Rules of Criminal Procedure are the most appropriate for the most part, as opposed to Federal Rules of Civil Procedure, it is hereby

ORDERED, ADJUDGED and DECREED that as may relate to this particular cause all matters of procedure will be subject to the provisions of the Federal Rules of Criminal Procedure as they may apply and the Federal Rules of Civil Procedure will not apply, and it is further

ORDERED, ADJUDGED and DECREED that the Notice of Taking Depositions of George F. Nolte, Assistant Vice-President of the First National City Bank of New York, and other unknown officers and employees of that bank, at 10:30 A.M., November 6, 1959, at New York, and all summonses connected therewith, be and the same are hereby vacated, the taking of testimony pursuant to said notice and sum-

monses prohibited, and the parties concerned protected against failure of non-compliance therewith.

DONE and ORDERED at Miami, Florida, this 13th day of November, 1959.

/s/ EMETT C. CHOATE
Judge, United States District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

ORDER

THIS CAUSE coming on to be heard upon the Petition of the Plaintiff to amend the protective Order of November 13, 1959, and the pronouncements therein, and the Court being advised in the premises, the Court is of the opinion that the Order entered on November 13, 1959 ordering that the procedure for taking of depositions of witnesses in the United States as permitted under the Federal Rules of Civil Procedure should not apply and the procedure is to be governed as stated in the Treaty. That the Court is of the opinion that the right of subpoena exists as relates to witnesses and further that the Court may, by order, provide for the securing of testimony where a witness cannot be secured to appear before the Court. It is,

ORDERED, ADJUDGED and DECREED that the Order of November 13, 1959 entered in the above cause, be and the same, is hereby vacated in so far as it relates to the estab-

lishment of special rules governing procedure in the above styled case.

DONE and ORDERED in Chambers in the Federal Courthouse, Dade County, Florida, this 23rd day of November, 1959.

/s/ EMETT C. CHOATE
United States District Judge

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, *Plaintiff*.

v.

MARCOS PEREZ JIMENEZ, *Defendant*

SUBPOENA

To: GEORGE F. NOLTE
Assistant Vice-President
The First National City
Bank of New York
55 Wall Street
New York, N. Y.

On motion of the plaintiff supported by affidavit in this cause, a proceeding on complaint for extradition under Section 3184 of Title 18 of United States Code, and pursuant to such section and to the Treaty of Extradition between the United States and the Republic of Venezuela,

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Southern District of Florida, Miami Division, at the Federal Building, 300 N.E. 1st Avenue, City of Miami, Florida, on the 14th day of December,

1959, at 10:00 o'clock a.m. and bring with you the documents, records and other materials specified in the attached schedule; PROVIDED that such appearance need not be made if, prior to December 14, 1959, such documents, records, and other materials are made available to counsel for the plaintiff, and are similarly made available to counsel for the defendant if counsel for the defendant so desires, for inspection, copying and the taking of copies.

If counsel for the plaintiff or defendant take copies of any documents, records or other materials with respect to the accounts of any of the following:

Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.

the contents of such copies shall not be disclosed by such counsel to any person other than the plaintiff or the defendant herein without further order of this Court, except as may be necessary in the course of offering any such matter in evidence in this proceeding or in the course of preparing copies thereof for the purpose of such offer.

/s/ WM. C. MATHES
U. S. District Judge

November 25, 1959

RETURN ON SERVICE

Received this writ at New York, N.Y. on Dec. 2, 1959 and on Dec. 2, 1959 at 20 Exchange Place, N.Y.C. New York, N.Y., I served it on the within-named George F. Nolte, Asst. Vice-Pres. The First National City Bank of N.Y. by leaving a copy thereof ~~or a subpoena ticket with~~ and ck for $119.68 with him.

THOMAS J. LUNNEY
U.S. Marshal, SDNY
By: /s/ HARRY J. CARITO
Deputy U.S. Marshal, SDNY

Marshal's Fees

Travel	$ .30
Service	$ .50
	$ .80

SCHEDULE

1. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) drawn from March 14, 1949, to November 25, 1959 (inclusive) against each account maintained in the First National City Bank of New York (including its predecessor the National City Bank of New York) in the name or for the benefit of any person or entity listed in paragraph 6.

2. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) deposited or credited from March 14, 1949, to November 25, 1959 (inclusive) to each account maintained in the First National City Bank of New York (including its predecessor the National City Bank of New York) in the name or for the benefit of any person or entity listed in paragraph 6.

3. Originals or copies of all statements of account (bank statements) and advices of balance, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each ac-

count maintained in the First National City Bank of New York (including its predecessor the National City Bank of New York) in the name or for the benefit of any person or entity listed in paragraph 6.

4. Originals or copies of all deposit slips and all memoranda, acknowledgments or notations of deposit, credit, transfer or withdrawal, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in the First National City Bank of New York (including its predecessor the National City Bank of New York) in the name or for the benefit of any person or entity listed in paragraph 6.

5. Originals or copies of all internal and external instructions, correspondence and other records or written communications, and all records of any oral communications, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in the First National City Bank of New York (including its predecessor the National City Bank of New York) in the name or for the benefit of any person or entity listed in paragraph 6.

6. The following persons and entities, without regard to any variation between the following names and the style of any account in which one or more of these names appear, and without regard to the joint or fiduciary character of any account:

Marcos Perez Jimenez
Flor Chalbaud de Perez Jimenez
Margot Perez Chalbaud
Florangel Perez Chalbaud
Maria Sol Perez Chalbaud
Flor de Maria Perez Chalbaud
Rosa Perez Jimenez de Vargas
Francisco Perez Jimenez
Juan Perez Jimenez
Napoleon Dupouy

Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.

7. The foregoing paragraphs shall not require production of documents, records, memoranda, correspondence or other materials that are in a foreign country.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General
of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

SUBPOENA

To: WALTER ANDERSON
Secretary
French American
Banking Corporation,
31 Nassau Street,
New York City, N.Y.

On motion of the plaintiff supported by affidavit in this cause, a proceeding on complaint for extradition under

Section 3184 of Title 18 of United States Code, and pursuant to such section and to the Treaty of Extradition between the United States and the Republic of Venezuela,

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Southern District of Florida, Miami Division, at the Federal Building, 300 N.E. 1st Avenue, City of Miami, Florida, on the 14th day of December, 1959, at 10:00 o'clock a.m. and bring with you the documents, records and other materials specified in the attached schedule; PROVIDED that such appearance need not be made if, prior to December 14, 1959, such documents, records, and other materials are made available to counsel for the plaintiff, and are similarly made available to counsel for the defendant if counsel for the defendant so desires, for inspection, copying and the taking of copies.

If counsel for the plaintiff or defendant takes copies of any documents, records or other materials with respect to the accounts of any of the following:

Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.
Banco Provincial de Venezuela,

the contents of such copies shall not be disclosed by such counsel to any person other than the Plaintiff or the Defendant herein without further order of this Court, except as may be necessary in the course of offering any such

matter in evidence in this proceeding or in the course of preparing copies thereof for the purpose of such offer.

/s/ Wm. C. Mathes
U.S. District Judge

November 25, 1959

Return on service

Received this subpoena at New York City on Nov. 30, 1959 and on Dec. 3, 1959 at 120 Broadway, NYC, served it on the within named Walter Anderson, Secretary, by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law. (U.S. 119.68)
Dated: 12/3/59

/s/ Thomas J. Lunney
U.S. Marshal

By /s/Harry J. Carito
Deputy

Service Fees
Travel $
Services

Total $

Subscribed and Sworn to before me, a this 4th day of December, 1959.

/s/ Frank P. Costa
Frank P. Costa
Notary Public State of N.Y., No. 03-5829350
Qualified in Bronx County
Commission Expires March 30, 1960

U. S. Marshal
S.D.N.Y.

Fees ..... $ .50
Mileage ..... $ .30

Expenses Total ..... $ .80

SCHEDULE

1. Photostatic or photographic copies of all checks, drafts, and bills of exchange (both sides) drawn from March 14, 1949, to November 25, 1959 (inclusive) against each account maintained in the French American Banking Corporation in the name or for the benefit of any person or entity listed in paragraph 6.

2. Photostatic or photographic copies of all checks, drafts, and bills of exchange (both sides) deposited or credited from March 14, 1949, to November 25, 1959 (inclusive) to each account maintained in the French American Banking Corporation in the name or for the benefit of any person or entity listed in paragraph 6.

3. Originals or copies of all statements of account (bank statements) and advices of balance, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each account maintained in the French American Banking Corporation in the name or for the benefit of any person or entity listed in paragraph 6.

4. Originals or copies of all deposit slips and all memoranda, acknowledgments or notations of deposit, credit, transfer or withdrawal, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in the French American Banking Corporation in the name or for the benefit of any person or entity listed in paragraph 6.

5. Originals or copies of all internal and external instructions, correspondence and other records or written communications, and all records of any oral communications, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each account maintained in the French American Banking Corporation in the name or for the benefit of any person or entity listed in paragraph 6.

6. The following persons and entities, without regard to any variation between the following names and the style of any account in which one or more of these names appear, and without regard to the joint or fiduciary character of any account:

Marcos Perez Jimenez
Flor Chalbaud de Perez Jimenez
Margot Perez Chalbaud
Florangel Perez Chalbaud
Maria Sol Perez Chalbaud
Flor de Maria Perez Chalbaud
Rosa Perez Jimenez de Vargas
Francisco Perez Jimenez
Juan Perez Jimenez
Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C. A.
Edificio Washington, C. A.

7. Originals or copies of all records, statements of account, deposit slips, acknowledgments, advices or notations of deposit, credit, debit, transfer or withdrawal, and memoranda, instructions, correspondence, and all other records and written communications and all records of any oral communications, whether internal or external, from March 14, 1949 to November 25, 1959 (inclusive) relating to the entire transaction or series of transactions of French American Banking Corporation with the Banco Provincial de Venezuela that are referred to in a letter of December 1,

1954 from Marcos Perez Jimenez to French American Banking Corporation, and in French American Banking Corporation's reply and enclosure of December 7, 1954.

8. The foregoing paragraphs shall not require the production of documents, records, memoranda, correspondence or other materials that are in a foreign country.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General
of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

SUBPOENA

To: J. W. GANAAN,
Agent
Royal Bank of Canada (New York Branch)
68 William Street,
New York, N. Y.

On motion of the plaintiff supported by affidavit in this cause, a proceeding on complaint for extradition under Section 3184 of Title 18 of United States Code, and pursuant to such section and to the Treaty of Extradition between the United States and the Republic of Venezuela,

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Southern District of Florida, Miami Division, at the Federal Building, 300 N. E. 1st Avenue, City of Miami, Florida, on the 14th day of December, 1959, at 10:00 o'clock a.m. and bring with you the documents, records and other materials specified in the

attached schedule; PROVIDED that such appearance need not be made if, prior to December 14, 1959, such documents, records, and other materials are made available to counsel for the plaintiff, and are similarly made available to counsel for the defendant if counsel for the defendant so desires, for inspection, copying and the taking of copies.

If counsel for the plaintiff or defendant takes copies of any documents, records or other materials with respect to the accounts of any of the following:

Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.,

the contents of such copies shall not be disclosed by such counsel to any person other than the plaintiff or the defendants herein without further order of this Court, except as may be necessary in the course of offering any such matter in evidence in this proceeding or in the course of preparing copies thereof for the purpose of such offer.

/s/ WM. C. MATHES
U. S. District Judge

November 25, 1959

RETURN ON SERVICE

Received this subpoena at New York City on Nov. 30, 1959 and on December 3, 1959 at 68 William Street, NYC served it on the within named J. W. Ganaan, true name

J. W. Ganenn, agent by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law.
Dated:

December 3, 1959

/s/ THOMAS J. LUNNEY
U.S. Marshal
By /s/ HARRY J. CARITO
Deputy

Service Fees
Travel $
Service
Total $.....

SUBSCRIBED AND SWORN to before me, a this 4th day of December, 1959.

/s/ Frank P. Costa
FRANK P. COSTA
Notary Public State of N.Y., No. 03-5829350
Qualified in Bronx County
Commission Expires March 30, 1960
U. S. Marshal
S.D.N.Y.
Fees ..... .50
Mileage ..... .30
Expenses
Total ..... .80

SCHEDULE

1. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) drawn from March 14, 1949, to November 25, 1959 (inclusive) against each account maintained in The New York Branch (including any office in New York) of The Royal Bank of Canada

in the name or for the benefit of any person or entity listed in paragraph 6.

2. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) deposited or credited from March 14, 1949, to November 25, 1959 (inclusive) to each account maintained in The New York Branch (including any office in New York) of The Royal Bank of Canada in the name or for the benefit of any person or entity listed in paragraph 6.

3. Originals or copies of all statements of account (bank statements) and advices of balance, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each account maintained in The New York Branch (including any office in New York) of The Royal Bank of Canada in the name or for the benefit of any person or entity listed in paragraph 6.

4. Originals or copies of all deposit slips and all memoranda, acknowledgments or notations of deposit, credit, transfer or withdrawal, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in The New York Branch (including any office in New York) of The Royal Bank of Canada in the name or for the benefit of any person or entity listed in paragraph 6.

5. Originals or copies of all internal and external instructions, correspondence and other records or written communications, and all records of any oral communications, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in The New York Branch (including any office in New York) of The Royal Bank of Canada in the name or for the benefit of any person or entity listed in paragraph 6.

6. The following persons and entities, without regard to any variation between the following names and the style of any account in which one or more of these names appear,

and without regard to the joint or fiduciary character of any account:

Marcos Perez Jimenez
Flor Chalbaud de Perez Jimenez
Margot Perez Chalbaud
Florangel Perez Chalbaud
Maria Sol Perez Chalbaud
Flor de Maria Perez Chalbaud
Rosa Perez Jimenez de Vargas
Francisco Perez Jimenez
Juan Perez Jimenez
Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.

7. The foregoing paragraphs shall not require the production of documents, records, memoranda, correspondence or other materials that are in a foreign country.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

SUBPOENA

To: ISAAC B. GRAINGER, President
Chemical Corn Exchange Bank
165 Broadway
New York 15, N. Y.

On motion of the plaintiff supported by affidavit in this cause, a proceeding on complaint for extradition under Section 3184 of Title 18 of United States Code, and pursuant to such section and to the Treaty of Extradition between the United States and the Republic of Venezuela,

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Southern District of Florida, Miami Division, at the Federal Building, 300 N.E. 1st Avenue, City of Miami, Florida, on the 14th day of December, 1959, at 10:00 o'clock a.m. and bring with you the documents, records and other materials specified in the attached schedule; PROVIDED that such appearance need not be made if, prior to December 14, 1959, such documents, records, and other materials are made available to counsel for the plaintiff, and are similarly made available to counsel for the defendant if counsel for the defendant so desires, for inspection, copying and the taking of copies.

If counsel for the plaintiff or defendant take copies of any documents, records or other materials with respect to the accounts of any of the following:

Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C.A.
Edificio Washington, C.A.

the contents of such copies shall not be disclosed by such counsel to any person other than the plaintiff or the defendant herein without further order of this Court, except as may be necessary in the course of offering any such matter in evidence in this proceeding or in the course of preparing copies thereof for the purpose of such offer.

/s/ WM. C. MATHES
U. S. District Judge

November 25, 1959

RETURN ON SERVICE

Received this subpoena at New York City on Nov. 30, 1959 and on Dec. 3, 1959 at 165 Broadway served it on the within named Isaac B. Grainger, Pres. by (illegible), Marilyn Ryan, Sect., by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law. (Chk. $119.68).

Dated:

December 3, 1959

/s/ THOMAS J. LUNNEY
U. S. Marshal
/s/ HARRY J. CARITO
Deputy

Service Fees
Travel $
Services
Total $

SUBSCRIBED AND SWORN to before me, a this 4th day of December, 1959.

/s/ FRANK P. COSTA
Notary Public
Commission Expires March 30, 1960
(SEAL)

U. S. Marshal
S.D.N.Y.
Fees ..... .50
Mileage ..... .30
.80

SCHEDULE

1. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) drawn from March 14,

1949, to November 25, 1959 (inclusive) against each account maintained in the Chemical Corn Exchange Bank in the name or for the benefit of any person or entity listed in paragraph 6.

2. Photostatic or photographic copies of all checks, drafts and bills of exchange (both sides) deposited or credited from March 14, 1949, to November 25, 1959 (inclusive) to each account maintained in the Chemical Corn Exchange Bank in the name or for the benefit of any person or entity listed in paragraph 6.

3. Originals or copies of all statements of account (bank statements) and advices of balance, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each account maintained in the Chemical Corn Exchange Bank in the name or for the benefit of any person or entity listed in paragraph 6.

4. Originals or copies of all deposit slips and all memoranda, acknowledgments or notations of deposit, credit, transfer or withdrawal, from March 14, 1949, to November 25, 1959 (inclusive) with respect to each account maintained in the Chemical Corn Exchange Bank in the name or for the benefit of any person or entity listed in paragraph 6.

5. Originals or copies of all internal and external instructions, correspondence and other records or written communications, and all records of any oral communications, from March 14, 1949, to November 25, 1959 (inclusive), with respect to each account maintained in the Chemical Corn Exchange Bank in the name or for the benefit of any person or entity listed in paragraph 6.

6. The following persons and entities, without regard to any variation between the following names and the style of any account in which one or more of these names appear, and without regard to the joint or fiduciary character of any account:

Marcos Perez Jimenez
Flor Chalbaud de Perez Jimenez
Margot Perez Chalbaud
Florangel Perez Chalbaud
Maria Sol Perez Chalbaud
Flor de Maria Perez Chalbaud
Rosa Perez Jimenez de Vargas
Francisco Perez Jimenez
Juan Perez Jimenez
Napoleon Dupouy
Laureano Vallenilla Lanz
Luis Felipe Llovera Paez
Carlos Pulido Barreto
Fortunato Herrera (Haddad)
Silvio Gutierrez
Pedro A. Gutierrez Alfaro
Lola T. Gutierrez Alfaro
Pedro A. Peters
Virgil C. Applewhite
Polinversiones, C. A.
Edificio Washington, C. A.

7. The foregoing paragraphs shall not require the production of documents, records, memoranda, correspondence or other materials that are in a foreign country.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-Civil

MANUEL ARISTEGUIETA, Consul General
of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*

ORDER ON HEARING OF DECEMBER 14, 1959 GRANTING MODIFICATION OF SUBPOENAS AND DENYING MOTIONS

This cause was continued from the hearing of November 23, 1959, as set forth in the order of this Court dated November 25, 1959. That order provided, among other things:

> "The plaintiff has presented its motion for an order of this Court permitting and directing the issuance of certain subpoenas, which said matters will be settled by this Court by separate order.
>
> "IT IS FURTHER ORDERED that this cause and further proceedings herein shall be continued until 10:00 o'clock a.m. of December 14, 1959, at which time the defendant is hereby directed to be present in Court."

Pursuant to that order, this cause came on to be heard at 10 o'clock a.m. of December 14, 1959; the defendant and his counsel were present in court, and the plaintiff was represented in court by his counsel.

As stated in the aforesaid order of November 25, 1959, the plaintiff had submitted a motion for the issuance of certain subpoenas, and this Court, on November 25, 1959, entered a further order granting the said motion and issued subpoenas directed to the persons set forth in the affidavit attached to said motion, which persons were as follows:

(a) George F. Nolte, Assistant Vice-President
First National City Bank of New York
(successor to National City Bank of New York),
55 Wall Street, New York City, N. Y.

(b) Walter Anderson, Secretary
French American Banking Corporation,
31 Nassau Street, New York City, N. Y.

(c) J. W. Ganaan, Agent
Royal Bank of Canada (New York Branch),
68 William Street, New York, N. Y.

(d) Isaac B. Grainger, President
Chemical Corn Exchange Bank,
165 Broadway, New York 15, N. Y.

(e) Wallace M. Davis, President
The Hibernia National Bank In New Orleans
Carondelet, Gravier & Union Street,
New Orleans, La.

At the hearing on December 14, 1959, it appeared that service of the subpoenas had been effected, and on that day the subpoenas as served were filed with the Clerk of this Court, except as hereinafter noted.

From statement of counsel for the plaintiff, it appeared that when the subpoena was served upon Wallace M. Davis, the President of the Hibernia National Bank in New Orleans, counsel arranged with counsel for said Bank for the making of photostatic copies of records assembled by said Bank in response to the subpoena, and that such copies of said instruments were furnished to plaintiff's counsel and to defendant's counsel, thus obviating at this time the necessity for further return or further appearance by the said Wallace M. Davis, without prejudice to the rights of either party to this cause to request additional information by additional subpoena or orders of this Court upon further

application. The further provisions of this order, therefore, do not apply with respect to the subpoena directed to the said Wallace M. Davis.

In the interim between November 25, 1959, and December 14, 1959, certain motions were filed, as follows:

A motion was filed on behalf of the defendant by his counsel, David W. Walters, to quash or modify all of the aforesaid subpoenas.

A motion was filed by the firm of Fowler, White, Gillen, Humkey & Trenam as attorneys for the First National City Bank of New York, for the French American Banking Corporation, and for the Royal Bank of Canada, to quash the subpoenas respectively served upon officers of the said respective Banks.

A motion was filed by the firm of Smathers, Thompson & Dyer as attorneys for Silvio Gutierrez as a depositor in the Chemical Corn Exchange Bank to quash the portion of the subpoena directed to an officer of said Bank pertaining to his account or accounts with said Bank.

A motion was filed by Scott, McCarthy, Preston, Steel & Gilleland as attorneys for Napoleon Dupouy, a depositor in the French American Banking Corporation and in the First National Bank of New York to quash the subpoenas directed to officers of such Banks, insofar as they pertained to him.

In the course of the hearing of December 14, 1959, the defendant through his counsel also filed an additional motion to discharge the defendant from custody and to dismiss the proceedings.

There were present at the hearing of December 14, 1959, counsel for the First National City Bank of New York, for the French American Banking Corporation, and for the Royal Bank of Canada, counsel for Silvio Gutierrez and

counsel for Napoleon Dupouy. There was also present a representative of Chemical Corn Exchange Bank; he advised the Court that the name of such bank is now Chemical Bank New York Trust Company.

After hearing extensive argument of all counsel and being duly advised in the premises, IT IS ORDERED, ADJUDGED and DECREED as follows:

1. The respective motions to quash the subpoenas be and the same are hereby severally denied.

2. The defendant's motion was in the alternative either to quash the subpoenas or to grant modification, and after due consideration, including consideration of the suggestions or comments of various counsel and those of the representative of the Chemical Corn Exchange Bank (now Chemical Bank New York Trust Company), the Court has determined that some modification would be advisable; therefore the subpoenas as issued shall be and hereby are modified in the following particulars:

a. The documents evidencing deposits or withdrawals in the accounts of the various persons specified in the subpoenas which are called for by the subpoenas are limited to deposits or withdrawals of $1,000 or more in United States currency or its equivalent.

b. The period set forth in the subpoenas, which was from March 14, 1949, to and including November 25, 1959, is amended to the period from March 14, 1949, to and including June 30, 1958.

c. The return date of the subpoenas is changed from December 14, 1959, to 10 o'clock a.m. of January 4, 1960.

3. The defendant's motion to be discharged from custody and to dismiss the proceedings, be and the same is hereby denied, without prejudice.

4. Since this modification of the subpoenas has been announced in open court and all parties concerned were represented before the Court, these modifications of the subpoenas shall stand as the order of this Court without further necessity of personal service, and the parties concerned shall take notice forthwith of the contents of this order, but counsel for the plaintiff shall serve a copy of this order by mail upon each of the parties upon whom the subpoenas were served, and upon counsel for the individual depositors who have filed their separate motions herein.

5. In the examination of their records and the preparation of information or copies of the same, the said Banks may incur unusual expenses which would not be covered by the usual witness fees as usually allowed in transactions of this type. If so any of such Banks claiming such unusual expenses may file a motion with this Court setting forth a complete statement of their time and services rendered and the expense thereof, and, unless such expenses can be stipulated to and paid by plaintiff, this Court reserves the right, upon appropriate notice and hearing, to fix a reasonable amount for the reimbursement of said expenses.

6. All proceedings in this cause shall be continued until 10 o'clock a.m. January 4, 1960, at which time the defendant shall present himself in open court.

WM. C. MATHES
United States District Judge

December 15, 1959.

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*.

ORDER AFTER HEARING ON JANUARY 4, 1960, ON MOTIONS TO QUASH SUBPOENAS, MOTIONS TO EXTEND THE RETURN DAY OF SUBPOENAS, AND OTHER MATTERS

THIS CAUSE came on to be heard pursuant to the Order on Hearing of December 14, 1959, entered by this Court on December 15, 1959, continuing the hearing herein until January 4, 1960, at 10 o'clock a.m.

The defendant was present in person before the Court, and both the plaintiff and defendant were represented by counsel present before the Court.

Certain named officials of The First National City Bank of New York, the French American Banking Corporation, and the Royal Bank of Canada have heretofore been served with subpoenas which, as subsequently modified, required them to appear and produce records in this cause on January 4, 1960, at 10 o'clock a.m. The aforesaid banks, on December 30, 1959, filed their collective Motion for Extension of the Return Day of the Subpoenas as Modified, in which it was set forth that the movents had filed a notice of appeal to the United States Court of Appeals for the Fifth Circuit from that portion of the order entered in this proceeding on December 15, 1959, denying their motion to quash the subpoenas served upon their officials, and setting forth further that it would be impossible for some of the movent banks to make the necessary preparations to

respond to the said subpoenas by the said return day of January 4, 1960. The movent banks were represented by Mr. Walter Humkey, who was present before the Court.

Upon consideration of this motion, after being duly advised in the premises, it is ORDERED, ADJUDGED and DECREED that the said motion for an extension of the return day be and the same is hereby denied insofar as movents' prayer was based upon their appeal to the United States Court of Appeals for the Fifth Circuit.

Upon further consideration of the aforesaid motion insofar as it seeks a reasonable extension of the return day to enable the said banks to complete their preparations to comply with the subpoenas, and to that extent the plaintiff having raised no objection thereto, it is ORDERED, ADJUDGED and DECREED that the return day of the said subpoenas be extended to January 27, 1960, at 10 o'clock a.m.

The aforesaid extension of the return day shall also apply to the subpoena heretofore issued to a named official of the Chemical Bank New York Trust Company (formerly Chemical Corn Exchange Bank), which subpoena, as modified, was also returnable on January 4, 1960. Counsel for said bank had requested by letter to this Court dated December 30, 1959, that the return day of such subpoena be extended to January 25, 1960, because such time was found necessary to enable such bank to comply with such subpoena.

The defendant, through his counsel, David W. Walters, asked that his objection to any extension of the return day with reference to any of the subpoenas be noted. Upon due consideration, the said objection of the said defendant shall be and the same is hereby overruled.

All other proceedings in this cause, other than those which are the subject of subsequent paragraphs of this Order, are hereby continued until January 27, 1960, at 10 o'clock a.m., at which time the defendant shall be present in person.

Subsequent to December 15, 1959, certain motions to quash were filed by parties alleging themselves to be depositors in one or more of the banks whose records have been subpoenaed, as follows:

A Motion to Quash on behalf of Fortunato Herrera and Polinversiones, C.A., was filed by their attorney, Mr. Richard H. Hunt, who was represented in Court by Mr. Norman Sand. The purpose of said motion was to quash those portions of the subpoenas pertaining to the account or accounts of Fortunato Herrera and Polinversiones, C.A.

Upon consideration of this motion, after being duly advised in the premises, it is ORDERED, ADJUDGED and DECREED that said motion to quash be and the same is hereby denied.

Pedro A. Gutierrez Alfaro and Lola T. De Guttierrez Alfaro, also known as Lola T. De Gutierrez Alfaro, also filed a Motion to Quash, by their attorney, Mr. L. J. Cushman, who was present in Court. The purpose of said motion was to quash the subpoena served upon a named official of the First National City Bank of New York, insofar as said subpoena pertained to the account or accounts of the movents.

Upon consideration of this motion, after being duly advised in the premises, it is ORDERED, ADJUDGED and DECREED that said motion to quash be and the same is hereby denied.

Subsequent to December 15, 1959, Silvio Gutierrez, through his attorneys, Smathers, Thompson & Dyer, filed a Motion to Stay seeking to extend the return day of the subpoena directed to a named official of the Chemical Bank New York Trust Company, insofar as his account in said bank was concerned. The said party had prior to the hearing of December 14, 1959, filed a motion to quash the said subpoena, which motion was denied by this Court in its order of December 15, 1959. In substance the present motion to stay sets forth that said Silvio Gutierrez has filed

a notice of appeal to the United States Court of Appeals for the Fifth Circuit from that portion of the order of December 15, 1959, relating to said movent, and asks that, based upon said appeal, this Court extend the return day of said subpoena. Said Silvio Gutierrez was represented before Court by Mr. L. S. Bonsteel.

Upon consideration of this motion, after being duly advised in the premises, it is ORDERED, ADJUDGED and DECREED that the said motion to stay based upon said appeal be and the same is hereby denied, but it is noted that the return day of the subpoena in question has been heretofore in this Order extended to January 27, 1960, at 10 o'clock a.m.

Subsequent to December 15, 1959, Napoleon Dupouy, through his attorneys, Scott, McCarthy, Preston, Steel & Gilleland, filed a Motion to Stay seeking to extend the return day of the subpoenas directed to named officials of the French American Banking Corporation and the First National City Bank of New York, respectively, insofar as his account or accounts in said banks were concerned. The said party had prior to the hearing of December 14, 1959, filed a motion to quash the said subpoenas, which motion was denied by this Court in its order of December 15, 1959. In substance the present motion to stay sets forth that Napoleon Dupouy has filed a notice of appeal to the United States Court of Appeals for the Fifth Circuit from that portion of the order of December 15, 1959, relating to said movent and asks that, based upon said appeal, this Court extend the return day of said subpoenas. Said Napoleon Dupouy was represented before the Court by Mr. Robert J. Beckham.

Upon consideration of this motion, after being duly advised in the premises, it is ORDERED, ADJUDGED and DECREED that the said motion to stay based upon said appeal be and the same is hereby denied, but it is noted that the return day of the subpoenas in question has been heretofore in this Order extended to January 27, 1960, at 10 o'clock a.m.

During the hearing counsel for the defendant made an oral motion to have the Court order that the plaintiff be required to be personally present at any hearings in this cause at which the defendant is required to be personally present. The Court announced that it was aware of no requirement of law which made the appearance of the plaintiff in Court on a hearing such as this jurisdictional but, since there was no objection by plaintiff's counsel, it is ORDERED that in all further hearings in this cause the plaintiff shall be personally present at such times as the defendant's personal presence is required. After this matter was raised by the defendant's counsel at the hearing, the plaintiff's counsel communicated with the plaintiff who came to the hearing and was personally present during the remainder thereof.

DONE AND ORDERED this 4th day of January, A.D., 1960.

WM. C. MATHES
United States District Judge

(Filed January 11, 1960).

IN THE DISTRICT COURT OF THE UNITED STATES
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*.

ORDER GRANTING PERMISSION TO TAKE DEPOSITIONS

The plaintiff prior to March 7, 1960, filed in this Court a Motion for Permission to Take Depositions, accompanied

by a certificate of service showing service by mail on February 25, 1960, on counsel for certain persons, including the three banks referred to herein, who might be affected by such motion. After argument on March 7 and 8, 1960, by counsel for the plaintiff, in support of such Motion, and by counsel for the defendant, counsel for the First National City Bank of New York, French American Banking Corporation and Royal Bank of Canada, and counsel for certain depositors in such banks, in opposition to such Motion,

And the Court being of the opinion that the decision of the United States Court of Appeals for the Fifth Circuit in the case referred to in such Motion (No. 18176, order entered Feb. 1, 1960) was limited to the question before that Court, that is the question of the power of this Court to issue subpoenas, returnable before this Court in Miami, Florida, to be served upon persons in New York City more than 100 miles from Miami, Florida,

And the Court being of the further opinion that, under the Treaty and statutes here involved, procedure for the securing of evidence from persons unwilling to produce evidence voluntarily should be and is available in the manner provided in Rules 26 and 45, and related provisions of the Federal Rules of Civil Procedure, for the taking of depositions of witnesses pursuant to subpoenas, including subpoenas duces tecum, in accordance with the territorial limitations provided in such Rules,

And the Court being of the further opinion that, in the particular circumstances of this case and in the light of the charges being made herein by the plaintiff, the proceedings held in this case, and the showing heretofore made by the plaintiff, the taking of such depositions in such manner of officials of the banks specified herein should be permitted in this case,

It is ORDERED, ADJUDGED AND DECREED that:

(a) The plaintiff be and hereby is granted permission to resort to the deposition procedure provided in Rules 26 and 45 and related provisions of the Federal Rules of Civil Procedure, including, without limitation, procedure for subpoenas duces tecum, to secure evidence from any appropriate officials of First National City Bank of New York, of French American Banking Corporation, and Royal Bank of Canada, all in New York City;

(b) In connection with a return to such subpoenas duces tecum as may be issued, the aforesaid banks, in the examination of their records and the preparation of information or copies thereof, may incur unusual expenses which would not be covered by the usual witness fees as usually allowed in transactions of this type; if so any of such banks claiming such unusual expenses may file a motion with this Court setting forth a complete statement of their time and services rendered and the expense thereof, and, unless such expenses can be stipulated to and paid by plaintiff, this Court reserves the right, upon appropriate notice and hearing, as a condition to the issuance of such order, to fix a reasonable amount for the reimbursement of said expenses; and

(c) The defendant be and hereby is permitted by this Court to go to the place of, and to be in attendance at, the taking of each such deposition.

DONE AND ORDERED this 9th day of March, 1960.

WM. C. MATHES
United States District Judge

IN THE DISTRICT COURT OF THE UNITED STATES
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*.

ORDER CONFIRMING ACTIONS TAKEN IN OPEN COURT ON MARCH 7 AND 8, 1960

This cause came on to be heard at 10 o'clock a.m. on March 7, 1960, pursuant to orders entered by this Court on January 4 and January 26, 1960. Both plaintiff and defendant were personally present in court. The hearing continued through March 7 and March 8, 1960. At this hearing several matters were presented to the Court for determination, which were ruled upon as follows:

1. An Order on Mandate was entered in connection with the Mandate of the United States Court of Appeals for the Fifth Circuit in Case No. 18176, respecting certain subpoenas duces tecum issued by this Court on November 25, 1959.

2. A petition in connection with bank records heretofore furnished counsel for both parties by the Hibernia National Bank in New Orleans was filed by said Bank by and through its counsel, Miller Walton, which petition after argument was dealt with by separate order entered herein.

3. Defendant by counsel presented a Motion to Quash the Orders of this Court entered on November 25, 1959, for subpoenas duces tecum directed to officials of First National City Bank of New York, French American Banking Corporation, Royal Bank of Canada, Chemical Bank New York Trust Company, and Hibernia National Bank in New

Orleans. After argument, such Motion was denied without prejudice to its renewal at some later time if counsel for the defendant is so advised.

4. Plaintiff's Motion for Permission to Take Depositions was considered by the Court and is disposed of by a separate order entered on this date.

5. In connection with the argument on said Motion it was pointed out that the Motion sought permission to take the deposition of an official of Chemical Bank New York Trust Company. Since a question exists as to whether the appeal of Silvio Gutierrez to the United States Court of Appeals for the Fifth Circuit from the order of this Court denying a motion to quash a subpoena directed to such official has been decided by the Court of Appeals or remains undecided by such Court, counsel for the plaintiff undertook to file in the Court of Appeals on or before March 17, 1960, a motion to dismiss such appeal if it remains undecided and is pending in such Court. It appeared to this Court that it would be appropriate to await a ruling on such motion before determining whether permission should be granted to the plaintiff for the taking of the deposition of an official of Chemical Bank New York Trust Company. Therefore, the order separately entered by this Court on plaintiff's Motion for Permission to Take Depositions does not include the taking of a deposition of an official or officials of Chemical Bank New York Trust Company, that matter being deferred for later consideration at an appropriate time.

6. After disposition of the plaintiff's Motion for Permission to Take Depositions, counsel for the interested parties discussed with the Court the question of the time when plaintiff would seek to have such depositions taken. Counsel for the defendant indicated that he would present a motion for a protective order under Rule 30 of the Federal Rules of Civil Procedure when the plaintiff gave notice of the taking of such depositions, and it was desired by

counsel for the defendant that there be an opportunity to present such motion to this Court at a time convenient to this Court prior to the taking of depositions. Accordingly it was agreed by counsel for the plaintiff that his notice of taking depositions would fix a date no earlier than April 15, 1960, for the taking thereof, and that such notice would be filed in time sufficient to enable counsel for the defendant to present to this Court his motion for a protective order at the next hearing in this case. Counsel for the plaintiff also agreed that there would accompany such notice a copy of the subpoenas duces tecum which counsel for the plaintiff would propose to have issued in connection with the taking of such depositions.

7. Plaintiff presented a Second Amended Complaint. The Court overruled objections by the defendant to the filing thereof, without prejudice. Thereupon, said Complaint was sworn to by the plaintiff in open court and the Court permitted its filing.

8. On application by the plaintiff the Court thereupon issued a new Warrant for the arrest of the defendant which was served upon the defendant by a Deputy United States Marshal in open court. The defendant having been taken into custody under the said Warrant by the Deputy United States Marshal, the Court with consent of both plaintiff and defendant approved the release of the defendant upon the security of the cash bond in the sum of $25,000 previously posted by the defendant upon his release from the prior outstanding Warrant for his arrest, and upon the conditions attached to such previous release as those conditions have been amended. The Court directed that the necessary entries to effect the transfer of bond be made by the Clerk and the Marshal. The Court directed that the prior outstanding Warrant against the defendant, being no longer in force and effect, be discharged.

9. Counsel for the defendant objected to the Second Amended Complaint and Warrant on the grounds set forth

in motions and objections heretofore made by counsel for the defendant in this proceeding to the previous Complaint, Amended Complaint, and Amendments thereto filed by the plaintiff and to the warrants issued thereunder. Such objections were overruled without prejudice.

10. Upon request made by counsel for the plaintiff, the Court directs the Clerk to release to counsel for plaintiff the English translation of the original extradition documents, for the purpose of making changes in said translation required by the review of said translation which has been under way by translators for plaintiff and defendant.

There being no further matters for the attention of the Court, the hearing was adjourned and the next hearing was set for 10 o'clock a.m. on Wednesday, March 30, 1960.

DONE AND ORDERED this 9th day of March, 1960.

/s/ WM. C. MATHES
United States District Judge

Filed Miami, Fla. Apr. 11, 1960, Julian A. Blake, Clerk

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

No. 9425-M-Civil

MANUEL ARISTEGUIETA, Consul General of the Republic of Venezuela, *Plaintiff*,

v.

MARCOS PEREZ JIMENEZ, *Defendant*.

ORDER ON PLAINTIFF'S MOTION FOR PERMISSION TO TAKE DEPOSITION OF CHEMICAL BANK NEW YORK TRUST COMPANY

Plaintiff having presented his motion, dated March 31, 1960, for permission to take the deposition of Chemical

Bank New York Trust Company, and the motion having been considered and submitted for decision;

IT IS ORDERED that the motion is hereby granted upon the same grounds and for the same reasons, and upon and subject to the same conditions as are set forth in the order of this Court, dated March 9, 1960, granting plaintiff herein permission to take the depositions of three other New York banks specified in said order; and all such provisions and conditions of said order of March 9, 1960, including the provisions therein as to reimbursement of the banks for unusual expenses, are hereby incorporated by reference herein.

IT IS FURTHER ORDERED that the Clerk this day serve copies of this order by United States mail upon the attorneys for the parties appearing in this cause.

April 7, 1960.

WM. C. MATHES
United States District Judge

APPENDIX 3

Orders, Opinion, and Judgment of the United States Court of Appeals for the Fifth Circuit

Filed Jan. 20, 1960, Edward W. Wadsworth, Clerk

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18176

MANUEL ARISTEQUIETA,* Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant*.

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA* and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners*,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

*"Aristeguieta" is misspelled "Aristequieta"; "Herrera" is occasionally misspelled "Herrara"; "Consul" is occasionally misspelled "Counsel"; and "Gutierrez" is occasionally misspelled "Guiterrez" on originals of orders, opinion and judgment of the Court of Appeals.

SILVIO GUTIERREZ, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,

Respondents.

Before RIVES, Chief Judge, JONES and BROWN, Circuit Judges.

PER CURIAM:

The appeal of the First National Bank of New York, the French American Banking Corporation, and the Royal Bank of Canada from an order of the United States District Court for the Southern District of Florida, Miami Division, denying a motion to quash three subpoenas duces tecum issued on behalf of the demanding country in the extradition proceedings first hereinabove styled is set for hearing and oral argument on the merits before this Court in the Courtroom in New Orleans, Louisiana, at 2:00 o'clock P.M. on January 27, 1960.

The motions for leave to file petition for writ of prohibition or mandamus or other petitions in the three cases last styled hereinabove, and any other motions or petitions in connection with said subpoenas duces tecum will be heard along with the argument on said appeal.

The parties may file typed briefs on or before the date of such hearing. Proceedings pursuant to said subpoenas duces tecum are stayed pending the final decision of this Court.

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18176

MANUEL ARISTEQUIETA, Counsel* General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant*.

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners*,

versus

MANUEL ARISTEQUIETA, Counsel General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

SILVIO GUTIERREZ, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

*"Aristeguieta" is misspelled "Aristequieta"; "Herrera" is occasionally misspelled "Herrara"; "Consul" is occasionally misspelled "Counsel"; and "Gutierrez" is occasionally misspelled "Guiterrez" on originals of orders, opinion and judgment of the Court of Appeals.

NAPOLEON DUPOUY, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,

Respondents.

PEDRO A. GUITERREZ* ALFARO and LOLA T. DE GUITTEREZ ALFARO, also known as LOLA T. DE GUITERREZ ALFARO,

Petitioners,

versus

MANUEL ARISTEQUIETA, Counsel General of the Republic of Venezuela, on behalf of the Republic of Venezuela,

Respondent.

Appeal from the United States District Court for the Southern District of Florida

and

Motions for Leave to File Petitions for Writs of Prohibition or Mandamus.

(February 1, 1960.)

Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

PER CURIAM: The appeal of the First National Bank of New York, the French American Banking Corporation,

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*"Aristeguieta" is misspelled "Aristequieta"; "Herrera" is occasionally misspelled "Herrara"; "Consul" is occasionally misspelled "Counsel"; and "Gutierrez" is occasionally misspelled "Guiterrez" on originals of orders, opinion and judgment of the Court of Appeals.

and the Royal Bank of Canada from an order denying a motion to quash three subpoenas duces tecum, issued on behalf of the demanding country in the extradition proceedings first hereinabove styled, and the motions for leave to file petitions for writ of prohibition or mandamus in all the other captioned causes, were argued and heard together. It was stipulated upon oral argument that final judgment might be entered as if leave to file the petitions for writ of prohibition or mandamus had been granted and those cases had been heard on the merits.

The court has carefully read and considered the briefs together with the oral arguments and has reached a conclusion. In view of the need for expedition, that conclusion is announced without opinion.

The court decides that the order denying motions to quash the subpoenas duces tecum is final and appealable. A majority of the court concludes that the said order should be reversed and the cause remanded with directions to quash the subpoenas duces tecum.

In view of the conclusions above announced, the petitions for the writ of prohibition or mandamus are denied.

The clerk is directed to enter judgments accordingly. Judge Rives thinks that the order should be affirmed, and, therefore, respectfully dissents.

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,176

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,

Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant*.

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners,*

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

SILVIO GUTIERREZ, *Petitioner,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

NAPOLEON DUPOUY, *Petitioner,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

PEDRO A. GUITERREZ ALFARO and LOLA T. DE GUITTEREZ ALFARO, also known as LOLA T. DE GUITERREZ ALFARO,
Petitioners,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

Appeal from the United States District Court for the Southern District of Florida

and

Motions for Leave to File Petitions for Writs of Prohibition and Mandamus

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Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

JUDGMENT

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Florida, and was argued by counsel;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the order of the said District Court denying the motions to quash the subpoenas duces tecum in this cause be, and the same is hereby, reversed; and that this cause be, and it is hereby, remanded to the said District Court with directions to quash the subpoenas duces tecum; and that the petitions for writ of prohibition or mandamus are denied.

It is further ordered and adjudged that the appellants, The First National City Bank of New York, French American Banking Corporation, and the Royal Bank of Canada recover their taxable costs in this Court from the appellee, Manuel Aristequieta, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela.

"Rives, Chief Judge, Dissenting."

January 29, 1960

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,176

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant.*

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners,*

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

SILVIO GUTIERREZ, *Petitioner,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

NAPOLEON DUPOUY, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,

Respondents.

PEDRO A. GUITERREZ ALFARO and LOLA T. DE GUITTEREZ ALFARO, also known as LOLA T. DE GUITERREZ ALFARO,

Petitioners,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,

Respondent.

Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

PER CURIAM:

The Motion filed on February 19, 1960 for Amendment of the Order entered on January 29, 1960 is hereby, Denied. February 24, 1960.

(Original Filed: February 24, 1960)

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,176

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,

Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant*.

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners,*

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

SILVIO GUTIERREZ, *Petitioner,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

NAPOLEON DUPOUY, *Petitioner,*

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

PEDRO A. GUITERREZ ALFARO and LOLA T. DE GUITTEREZ ALFARO, also known as LOLA T. DE GUITERREZ ALFARO,
Petitioners,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

On Motion to Dismiss the Appeals of Fortunato Herrera, Polinversiones, C.A. (a Venezuelan Corporation), Silvio Gutierrez, Napoleon Dupouy, Pedro A. Gutierrez Alfaro and Lola T. De Gutierrez Alfaro.

Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

PER CURIAM:

This Court intended to and did decide on January 29, 1960, all five appeals pending in this cause; that is, the joint appeal by the First National City Bank of New York, French American Banking Corporation, and the Royal Bank of Canada, the appeal of Silvio Gutierrez, the appeal of Napoleon Dupouy, the appeal of Fortunato Herrera and Polinversiones, C.A., and the appeal of Pedro A. Gutierrez Alfaro and Lola T. de Gutierrez Alfaro. The Clerk is directed to issue a supplementary mandate so indicating. Since the appeals are no longer before this Court, the motion of Fortunato Herrera and Polinversiones, C.A. (a Venezuelan corporation), Silvio Gutierrez, Napoleon Dupouy, Pedro A. Gutierrez Alfaro and Lola T. de Gutierrez Alfaro to dismiss the appeal is DENIED.

Enter for the Court this the 25th day of March, 1960.

/s/ RICHARD T. RIVES
Chief Judge, Fifth Circuit

(Original Filed: March 28, 1960)

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,176

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Plaintiff,

versus

MARCOS PEREZ JIMENEZ, *Defendant*.

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK of CANADA, *Petitioners*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

FORTUNATO HERRARA and POLINVERSIONES, C.A., a Venezuelan Corporation, *Petitioners*,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

SILVIO GUTIERREZ, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

NAPOLEON DUPOUY, *Petitioner*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,
Respondents.

PEDRO A. GUITERREZ ALFARO and LOLA T. DE GUITTERREZ ALFARO, also known as LOLA T. DE GUITERREZ ALFARO,
Petitioners,

versus

MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela,
Respondent.

Appeal from the United States District Court for the Southern District of Florida

and

Motions for Leave to File Petitions for Writs of Prohibition or Mandamus

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Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

AMENDED JUDGMENT

IT IS ORDERED that the judgment of this Court entered on January 29, 1960 and issued on March 3, 1960 as and for a mandate be, and the same is hereby amended to read as follows:

This cause came on to be heard on all five appeals pending in this cause; that is, the joint appeal by the First National City Bank of New York, French

American Banking Corporation, and the Royal Bank of Canada, the appeal of Silvio Gutierrez, the appeal of Napoleon Dupouy, the appeal of Fortunato Herrera and Polinversiones, C.A., and the appeal of Pedro A. Gutierrez Alfaro and Lola T. de Gutierrez Alfaro, and on the transcript of the record from the United States District Court for the Southern District of Florida, and was argued by counsel;

On Consideration Whereof, It is now here ordered and adjudged by this Court that the order of the said District Court denying the motions to quash the subpoenas duces tecum in this cause be, and the same is hereby, reversed; and that this cause be, and it is hereby, remanded to the said District Court with directions to quash the subpoenas duces tecum; and that the petitions for writ of prohibition or mandamus are denied.

It is further ordered and adjudged that the appellants, The First National City Bank of New York, French American Banking Corporation, and the Royal Bank of Canada recover their taxable costs in this Court from the appellee, Manuel Aristequieta, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela.

"Rives, Chief Judge, Dissenting."*

March 25, 1960

(Original Filed: March 28, 1960)

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* Quotation marks in original.

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,276

THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, *Petitioners*,

versus

THE HONORABLE WILLIAM C. MATHES, United States District Judge, and THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION,

Respondents.

ON MOTION FOR LEAVE TO FILE PETITIONS FOR WRIT OF PROHIBITION OR MANDAMUS

Before RIVES, Chief Judge, and HUTCHESON and JONES, Circuit Judges.

PER CURIAM:

The propriety of the action of the district court referred to in the proposed petition for writ of prohibition or mandamus was not before this Court nor decided by it and is not contrary to the mandate in No. 18176,[1] decided Janu-

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[1] Styled, MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela, vs. MARCOS PEREZ JIMINIZ; THE FIRST NATIONAL CITY BANK OF NEW YORK, FRENCH AMERICAN BANKING CORPORATION and THE ROYAL BANK OF CANADA, vs. THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION; FORTUNATO HERRERA and POLINVERSIONES, C.A., a Venezuelan Corporation, vs. MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela; SILVIO GUTIERREZ

ary 29, 1960. Leave to file the petition for writ of prohibotion or mandamus is therefore

DENIED.

Enter for the Court this the 25th day of March, 1960.

/s/ RICHARD T. RIVES
Chief Judge, Fifth Circuit

(ORIGINAL FILED: March 28, 1960)

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vs. THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION; NAPOLEON DUPOUY vs. THE HONORABLE WILLIAM C. MATHES, United States District Judge, and the UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION; PEDRO A. GUTIERREZ ALFARO and LOLA T. DE GUITTEREZ ALFARO, also known as LOLA T. DE GUTIERREZ ALFARO vs. MANUEL ARISTEQUIETA, Consul General of the Republic of Venezuela, on behalf of the Republic of Venezuela.

APPENDIX 4

Excerpts From Published Materials Dealing With Marcos Perez Jimenez

The following material is a chronological compilation of excerpts from the New York Times and from Congressional publications, relating to the connection between the deterioration of United States-Latin American relations and the presence of Perez Jimenez in the United States.

"President Wolfgang Larrazabal said he would probably speak with Mr. Nixon about the presence of former President Marcos Perez Jimenez and his security police aide in the United States. He added: 'I would like it if the United States did not permit these two to live there.'" N. Y. Times, May 12, 1958, p. 3, col. 3.

"The Vice President's recognition of the fact that the presence in the United States of Venezuela's former dictator, Marcos Perez Jimenez, and his police chief, Pedro Estrada, is one of the main irritants underlining the seriousness of the anti-United States sentiment here three and one-half months after the dictatorship was overthrown.

"Mr. Nixon said that, in the light of an extradition treaty with Venezuela, the United States would be glad to take proper action and turn over General Perez Jimenez and Estrada if the Venezuelan courts requested it." N. Y. Times, May 14, 1958, p. 1, col. 5.

"A few days after the visit to Caracas of the oil mission, the United States announced that it had granted visas to General Perez Jimenez and Senor Estrada....

". . . the news was something of a bombshell. It handed the Communist party, which was busy reconstructing its apparatus and spreading its influence in universities, factories, unions and intellectual groups, just the issue it needed to set in motion an effective anti-United States campaign.

• • •

"The Communist party, armed with this propaganda manna from heaven, wasted no time in opening up with all its batteries. The United States, it argued, had again proved its hostility toward the people of Venezuela by providing a haven for General Perez Jimenez and thereby assisting him in his plans to stage a comeback.

• • •

"Many persons, particularly impressionable students, bought the Communist line lock, stock and barrel. The big Central University was well infiltrated by the Communists and, with the visa issue in hand, they had little trouble acquiring far-reaching support. . . .

• • •

". . . Mr. Nixon's promise that General Perez Jimenez and Senor Estrada will be extradited as soon as the Venezuelan courts complete their cases also went far to clear the atmosphere. But a concentrated effort on both sides will be needed to bring the relations back to where they were three months ago." Szulc, *Venezuela: Anti-U.S. Case History,* N. Y. Times, May 18, 1958, § 4, p. 14, col. 3.

"The issue was dramatized in Caracas, Venezuela, last Tuesday when a Communist-led mob attacked Mr. Nixon's car and fell just short of doing him bodily harm. It had been whipped to a frenzy by the allegations that the United States was aiding the former dictator, General Marcos Perez Jimenez and his police chief, Pedro Estrada, by having given them visas and haven." N. Y. Times, May 18, 1958, p. 1, col. 2.

". . . In Venezuela, the granting of asylum by the United States to ex-dictator Marcos Perez Jimenez and his police chief, Pedro Estrada—who was one of modern history's outstanding torturers and inquisitors—had a disastrous impact upon public opinion

and more than anything else it contributed to an explosion of anti-United States feelings." 104 Cong. Rec. 9428 (1958) (a reprint by Senator Mansfield of an article by Tad Szulc in the N. Y. Times, May 25, 1958).

"... The sorest point is that Perez Jimenez and Pedro Estrada, his secret police chief, both received visas for the United States. As one Venezuelan editor put it: 'Washington keeps out Charlie Chaplin the clown, but accepts Perez Jimenez and Estrada, the butchers.'

• • •

"The incredible asylum granted Perez Jimenez in these United States after his overthrow caused Vice President Nixon some trying moments in Caracas, we are told. Can we now wonder wide-eyed why the Venezuelan people are suspicious of our motives?

• • •

"... The readily obtainable facts about Perez Jimenez, former Venezuelan dictator, should be published and given to General Swing, the Immigration and Naturalization Commissioner, who then could easily and quickly boot him out of the country on an exclusion proceeding." 104 Cong. Rec. 9628-9630 (1958) (remarks by Congressman Porter.)

"... Now why did this happen? We must really get at the cause of it. This was because there happened to be in Venezuela at the time that we visited some real problems with regard to the relations between Venezuela and the United States. One of them was their feeling that the United States, both on the part of Government and as far as private enterprise were concerned, supported dictatorship, including the dictatorship of Perez Jimenez. Another was the feeling among many in Venezuela that we had made a mistake

in providing refuge for Perez Jimenez, and the head of the Venezuelan Police, Estrada." 104 Cong. Rec. 9700 (1958) (reprint of address by Vice President Richard M. Nixon before the National Press Club, May 21, 1958).

"I think that there is a considerable feeling of popular resentment, shall we say, in Venezuela, about Perez Jimenez being in the United States.

• • •

"Yes; under the terms of our Extradition Treaty of 1922 we have been prepared right along [to proceed with extradition]. We have stated that repeatedly from the time the subject was first brought up and it was repeated in very forceful terms by the Vice President when he was in Caracas." Hearings Before the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs, 85th Cong., 2d Sess. 16-17 (1958) (testimony by Roy R. Rubottom, Jr., Assistant Secretary of State for Inter-American Affairs).

"The established centers of university students issue the following declaration on the coming visit of Mr. Richard Nixon, Vice President of the United States of America:

"Considering him:

• • •

"(c) Representative of a policy that did not hesitate in giving asylum and protection to the assassins of the Venezuelan people, Perez Jimenez and Pedro Estrada.

• • •

"Declare Mr. Richard Nixon as an undesirable visitor in the fatherland of Simon Bolivar." *Id.* at 134 (translation of an article in Ultimas Noticias of Caracas, May 11, 1958).

"We cannot forget the complacent attitude with which the United States supported Perez Jimenez and his clique, an attitude which is maintained in giving asylum and protection to same in the United States disregarding the unanimous protest of democratic opinion in America." *Id.* at 136 (translation of an article in La Esfera of Caracas, May 13, 1958).

"The pent-up feelings exploded with a tremendous shock when Vice President Nixon made his now famous trip to South America in April and May, 1958. Virtually all students of Latin American affairs agreed at the time that Mr. Nixon drew the right conclusion from his experience—that the hostility was not directed against him personally but against United States policies toward the region, especially economic policies, and the favoritism shown toward Latin-American dictators.

• • •

"The Nixon concept is based on a recognition of the fact that, without a spirit of cooperation, mutual respect and friendship, Latin America—or some countries in the area—could withdraw toward neutralism or an aggravated Yankeephobia. A negative attitude of that type is as much to be feared as a positive and favorable attitude is to be desired. In either case, one must start from the premise that Latin America is of enormous—perhaps even vital—importance to our continued existence as a free and prosperous nation.

• • •

"The area is passing rapidly from an underdeveloped agrarian and mineral economy into an industrial revolution. The strongest feature of Latin American affairs today is social revolution, to which, in recent years, is linked the tidal wave of democracy that has swept most of the region's dictators awa . It stands to reason that such an area is politically unstable, in

a social ferment and emotionally sensitive. In other words, it is potentially a fertile field for Communism.

• • •

"Perez Jimenez, one of the most brutal and predatory dictators in Latin American history, is a reminder of another great and bitter Latin American complaint—United States favoritism toward dictators." Matthews, *Why Latin America is Vital to Us,* N. Y. Times, April 26, 1959, § 6 (Magazine), p. 17.

"There is reason for real concern over the penetration that Communists have made in certain Latin American intellectual circles and, particularly, in student bodies.

. . .The intellectual field, in all its many ramifications, still represents, in my opinion, the main immediate goal of the Communists south of the Rio Grande. . . . The Communists (in Venezuela) were able to build upon the students' strong resentment over the fact that Perez Jimenez and Chief of Police Pedro Estrada were granted visas to enter the United States.

"Under their reign, the University of Caracas had been closed for many months, while hundreds of students were arrested and tortured by the secret police." Hearings Before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Senate Committee on the Judiciary, 86th Cong., 1st Sess. 128 (1959). (Statement by Serafino Romualdi, Inter-American representative of the AFL-CIO).

"The case of the unwanted dictator of Venezuela, General Perez Jimenez, entered a new phase on Tuesday. The former military ruler, one of the most discredited figures in Latin America, was arrested by United States marshals in Miami and held several hours until he appeared before Judge Emmett C. Choate of the Federal district court. The legal cause was a com-

plaint filed by the Venezuelan Consul in Miami on behalf of his Government asking for the extradition of General Perez Jimenez on charges of murder, attempted murder and embezzlement. On putting up a $25,000 bond the general was released pending formal hearings on the Venezuelan charges.

"This is a real *cause celebre* all over the hemisphere. For one thing, the central figure was an example of the worst type of Latin-American military dictator. His regime was almost incredibly corrupt and its brutality was such that it could only be characterized as horrifying. It so happens that the United States record of friendliness to the dictatorship, especially under the Ambassadorships of Fletcher Warren and Dempster McIntosh, makes the case the most often quoted example of favoritism in this field." Editorial, N. Y. Times, August 27, 1959, p. 26, col. 2.

"Giving asylum in Miami, Fla., to a Venezuelan dictator whose ruthless regime has been overthrown by the Venezuelan people is propaganda fodder for the Communists' representation that the United States prefers dictators friendly to American business interests abroad rather than democratic administrations seeking to improve the economic welfare of the mass of the people in Venezuela." Report of Senator Wayne Morse on a Study Mission to the Senate Committee on Foreign Relations, 86th Cong., 2d Sess. 3 (1960).

"It is important to the United States that responsible representative government succeed in Venezuela. One of the complaints which is frequently heard about the United States in Venezuela and elsewhere in Latin America is that it views liberal reform governments askance and does not really care about social progress. This complaint is often exaggerated, but it is believed by many people. Here in Venezuela is a chance to

demonstrate that the reverse is true and that the United States in fact has far more in common with democrats like Betancourt than with dictators like Perez Jimenez." Report of Senator George D. Aiken on a Study Mission to the Senate Committee on Foreign Relations, 86th Cong., 2d Sess. 6 (1960).

APPENDIX 5

Excerpts From Proceedings of the Juridical Committee and Executive Committee of the 48th Conference of the Interparliamentary Union

The following is the text of the motion presented by the Venezuelan Group to the Juridical Committee of the 48th Interparliamentary Conference:

"The Venezuelan Delegation to the 48th Interparliamentary Conference, carrying out the profound desire of the Venezuelan people and of the Venezuelan Parliament, and echoing the sentiments of other peoples and parliaments of Latin-American countries, formally request that a study be made of the desirability of including in the agenda of the next meeting the following question:

"That the Conference of the Interparliamentary Union make an appeal to all the national groups for the purpose of encouraging in the legislative field, in international negotiations, and in the conscience of their respective peoples and governments, a common attitude based on principles of Justice and Law, in order to prevent public funds, misappropriated in any State by those in power through the abuse of said power, from being enjoyed with impunity and under guarantees in the territory of another State.

"The legal and moral reasons for this proposal are obvious. Since money obtained through crime is not protected for the benefit of the criminal in any civilized country, funds resulting from abuse of power, causing harm, not to a private citizen but to the whole people, cannot enjoy a privilege which would be both insulting and immoral.

"The historical reasons are even of a more serious nature. In all the Continents, and particularly in Latin America due to the direct experience we have had, men have appeared who, in violation of all human rights and against the will of the citizens, have accumulated huge fortunes for themselves, and have assured their enjoyment thereof by timely transfers of such fortunes to foreign countries. Among those

other countries there are some that take just pride in their democratic institutions and in their respect for the Law, nevertheless they serve as a haven for crime when they offer asylum to actual criminals in the guise of legitimate and honorable investors. Such a situation outrages the feelings of the peoples that have been despoiled, while it undermines the common faith in democracy, which would be only a sham if the laws and those responsible for their application did not sincerely support its principles.

"We request that the Juridical Committee recommended to the Executive Committee that this question be considered, so that at the next meeting of the Conference a draft resolution from our delegation may be taken up, after due discussion within the Latin-American Parliamentary Group which must precede the 49th Conference.

"(Signed) RAFAEL CALDERA
"Warsaw, August 31, 1959"

The following are extracts from the Minutes of the meeting of the Juridical Committee at Warsaw, September 4, 1959:

"*Mr. Touron Lugo* (Secretary of the Venezuelan delegation) read out a draft resolution presented by his Group in the following subject: 'Appeal to the National Groups to take Measures against the Ill-Usage (malversation) of public funds'.

"*The Chairman* asked the Venezuelan delegation to give a proper title to their proposal.

"*Mr. Touron Lugo* asked for time to discuss the matter with his colleagues.

"*The Chairman* proposed a short adjournment so that the Venezuelan delegation could study the title

of their resolution and so that the Committee could examine the questions already on the agenda.

• • •

"*Mr. Cardoso* (Brazil) said that the problem of the theft of public funds by dictators was extremely grave in Latin-American Republics. He cited concrete examples in this respect. The theft of public funds by dictatorial Governments was a frequent occurrence. As a result, many countries in Asia and America were constantly being impoverished. It was a question that should be studied by the Inter-Parliamentary Union.

"*The Chairman* supposed that Mr. Cardoso had been referring to the Venezuelan proposal on the illegal self-enrichment of Government officials and suggested a vote on the subject.

• • •

"*Mr. Douglas,* Assistant Secretary, said that the three items already approved were those dealing with juvenile delinquency, education against war and human rights. The Soviet delegation had suggested these and had been supported by Mr. Bowen of Great Britain. A fourth one, the Venezuelan question, could now be added.

"*The Chairman* asked whether the members agreed to the Venezuelan question being added to the agenda.

"*Mr. Ribiere* (France) thought that this was a question falling within the scope of private international law rather than of international law proper.

"*Mr. Cardoso* (Brazil) thought that the recommendations of the Union could bear on both fields.

"*Mr. Moreno Figueroa* (Peru) supported the Venezuelan proposal and cited the thefts by Battista, Peron, etc.

"*The Venezuelan proposal was accepted by 10 votes to nil, with 3 abstentions.*"

The following are extracts from Minutes of the meeting of the Executive Committee at London on December 16 and 17, 1959:

> "With regard to the agenda of the Juridical Committee, *Mr. Braga* was of the opinion that the topic proposed by the Venezuelan Group, to which reference had already been made, was of more interest to parliamentarians of the Americas than to those of other countries and that it might therefore be more appropriate to recommend this point for insertion in the agenda of the next regional conference in Santiago.
>
> "*It was so agreed.*
>
> "*The President* opened the meeting at 10:15 a.m. and read out the text of a cable which had just been received from Mr. Rafael Caldera, the Vice-President of the Venezuelan Group. This requested consideration of the agenda item proposed by the Venezuelan Group at the Warsaw Conference. Mr. Codacci-Pisanelli reminded members that this question had been discussed at the previous day's meeting when it had been decided that the particular topic proposed would be more suitably discussed at the Santiago regional conference in 1960. He suggested therefore that Dr. Caldera should be informed accordingly.
>
> "*It was so agreed.*"

The materials in Appendix 5 were obtained by correspondence between the attorneys for petitioner and Mr. James Douglas, Assistant Secretary General, Union Interparlementaire, 6 Rue Constantin, Geneva, Switzerland.